

Judiciary as undertakers of Nigeria's democracy,

By Ikechukwu Amaechi

ON Wednesday, September 6, the Presidential Election Petitions Tribunal, PEPT, delivered judgement in the petitions filed by Atiku Abubakar and the People's Democratic Party, PDP, Peter Obi and the Labour Party, and the Allied Peoples Movement, APM, challenging the declaration of Bola Tinubu of the All Progressives Congress, APC, winner of the February 25 presidential poll. It is instructive that the ruling came exactly on the day the respondent, Bola Tinubu, marked his 100th day in office as President. It is also worth noting that as the judgement was being delivered in Abuja, Tinubu who ordinarily should be in the eye of the storm, was in far-away New Delhi, India, where he is representing Nigeria on an observer status at the summit of the group of 20 most industrialised nations, G20, the premier forum for international economic cooperation, on the invitation of the incumbent chairman, Narendra Modi, Prime Minister of India.

I doubt if there is any Nigerian who was in doubt what the outcome of the case would be. Before he left Nigeria for India on Monday, Tinubu's spokesman, Ajuri Ngelale, told Nigerians that his principal was "not worried" about the outcome of the court matter. The braggadocio of the Tinubu loyalists in the week leading up to the judgement day pointed to the fact that they were sure of the outcome. As the PEPT was delivering its judgement on Wednesday, a friend of mine, a senior lawyer, sent me a text enquiring if I was watching it on television. He said the judges couldn't even have done a better job as defence attorneys. I asked him if the judiciary can ever be redeemed and his answer was a categorical No! I was saddened. Make no mistake about it. I have never believed that Nigerian courts can deliver justice particularly in matters of high-octane political value like this one. So, I was not saddened because I was disappointed. No! But to realise that many lawyers are increasingly losing faith in the ability of the courts to deliver justice is a bad omen. I have had discussions in recent times with many politicians who have been in courts either defending their



"mandates" as declared by the electoral umpire or trying to retrieve their alleged "stolen mandates". It has been a tale of woes on both sides. The only determinant factor is money – loads of money. But the outcome of this case should worry any well-meaning Nigerian because it impugns on our so-called democracy.

For democracy to be "government of the people, by the people, for the people" as former U.S. President Abraham Lincoln, noted in his famous Gettysburg address on November 19, 1863, the votes of the people must be the sole determinant of who gets elected. That is not the case in Nigeria, as indeed it is not in many other African countries, where elections are not free and fair. In every milieu where might is right, and those who are powerful can do what they wish unchallenged, even if their action is, in fact, unjustified, woe betides anyone who stands in their way. That is clearly the case with our dear country where a few people have totally captured the state. There is everything wrong with our democracy. In a country where there is no difference between private and public purse, swearing in "winners" of a contentious election before the final determination is made in court is injurious not only to the so-called losers but the Nigerian state itself. All the odds are against the petitioners. Attempt by the National Assembly in 2014 to make a law that would make the Independent National Electoral Commission, INEC, take the responsibility of proving the conduct and regularity of elections in the country before the election petitions tribunal or the court failed. If that Bill had scaled through, the resultant Act would have placed the burden of proof on the INEC, instead of the litigants. It would have also reduced the difficulties petitioners normally face while trying to get the necessary documentary evidence in support of their petitions.

In their ruling, the five Justices blamed the petitioners for not producing enough evidence of electoral malfeasance even when they understood the Professor Mahmoud Yakubu-led INEC blatantly refused to avail them those documents, flagrantly disobeying the Tribunal's order. While the alleged losers who, for all I care, may indeed be the winners are further stretched financially in courts, those that have been declared winners, who may indeed be the losers, make use of public

funds in defending their "mandates" in court. Not only that, they deploy the resources of the state – human and material – maximally. As it is the case in this instant case, Tinubu has been using the enormous privileges and powers conferred on him by the office of the presidency to consolidate power and entrench himself. He sacked the Service Chiefs and appointed his loyalists. In a country where the military swear allegiance to the President rather than the Constitution and are only interested in regime protection rather than protection of the Nigerian state, wielding the coercive powers of the state makes all the difference. PEPT announced the judgement date, the Department of State Services, DSS, issued an ominous warning against anyone who may have the appetite to protest the ruling. Before Tinubu jetted out to India, he had a meeting with all the Service Chiefs behind closed doors. The military top brass came out of the meeting to warn would-be "troublemakers".

While the petitioners were finding it difficult to make a headway in the case, the President was busy making juicy appointments and dispensing political patronages. Prince Lateef Fagbemi, a Senior Advocate of Nigeria, SAN, one of Tinubu's lawyers at the tribunal, is now the Attorney General of the Federation, AGF, and Minister of Justice. Even presidential candidates of some political parties are seriously lobbying President Tinubu for a slice of the national cake and pledging their unalloyed loyalty. I

doubt if there is any Nigerian who sincerely believed that the PEPT will sack Tinubu. And yesterday's judgement will only be a fait accompli at the Supreme Court should the petitioners decide to go on appeal. Those who insist that what happened at the Tribunal on Wednesday is evidence that Nigeria is still groping in the dark, may not be wrong after all. Someone quipped: "After seeing this, do you still want to waste time on Nigeria's judiciary and questionable politicians?" Some do but I don't. Tinubu has wangled his way to the presidency and used the judiciary to legitimize his position. Ours is a democracy where the people have no say. As a pall of silence descends on Nigeria once again as it was the case when Prof Yakubu declared the presidential election result in the wee hours of the morning when most people were asleep, highly distraught but subdued Nigerians will pick the pieces of their lives and move on. But I foresee danger. Aside Nigerians like myself who have vowed never to vote again in any Nigerian election and the attendant voter apathy, those who are still foolhardy to throw their hat into the electoral ring may decide that henceforth every electoral battle must be waged, won or lost at the polling booth rather than waiting for INEC to make a declaration and embark on a wild goose chase at the courts. When the judiciary wittingly or unwillingly takes the role of democracy undertakers, that is a recipe for anarchy!

ECOWAS Single Currency is still in the pipeline ...*Alhassane M. Diallo,*

The dreams of creating the ECOWAS single currency was dampened as members of ECOWAS parliament headed by the Deputy Speaker 1, Hon. Sani Malam Chaibou Boucary, visited the West African Monetary Agency (WAMA) to get first-hand information on their activities during their oversight visit to Sierra Leone. WAMA is an autonomous and specialized agency of the ECOWAS which was established in 1996 to monitor, coordinate and implement ECOWAS monetary cooperation programme which is geared towards the creation of the ECOWAS single currency, promote the use of national currencies in trade and non-trade transactions within the sub-region, promote and encourage trade exchange liberalization among member states, enhance monetary cooperation among member states, initiate and promote policies and programmes relating to monetary integration among others. The Officer-in-charge of WAMA, Alhassane Diallo, who intimated the delegation about their activities, informed them that they are working tirelessly to achieve the single currency ambition of ECOWAS. He, however, counted some of the challenges facing the agency in achieving the single currency dream of ECOWAS to include economic integration, trade in member states which are lower than trades outside ECOWAS, low production, and high inflation and a host of other challenges. Some members of the parliament urged WAMA to engage in massive sensitization in ECOWAS member states to create the awareness and political will in member states to achieve the single currency.

The team had earlier during the oversight visit to projects being financed by ECOWAS in Sierra Leone, paid courtesy visits on the Ministries of Foreign Affairs and International Cooperation and that of Planning and Economic Development. The head of Sierra Leone delegation to ECOWAS parliament, Hon. Veronica Kadie Sesay while explaining the purpose of the visit, said, members from the regional parliament were in the country to oversee and inspect some of their projects. The Deputy Minister of Foreign Affairs and International Cooperation, Madam Frances Alghali, who welcomed the team to her ministry, said, the work of ECOWAS is very important to Sierra Leone adding that as a community, they should invest in peace, security and democracy. She assured the delegation that they are always ready to assist ECOWAS achieve its goals. The Minister of Planning and Economic Development, Madam Kenyeh Ballay, on her part, said, her ministry houses the desk of ECOWAS and that they are also responsible to monitor ECOWAS activities in the country. Madam Ballay, threw more light on the depot project at the Sierra Leone-Liberia border and the one being undertaken by ECOWAS at Lungi. She reechoed the government's big five changers which include feed Salone, human capital development, youth empowerment scheme, revamping the public service and tech and infrastructure.